

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2056-01  
Bill No.: HB 593  
Subject: Administration, Office of; State Departments; State Employees  
Type: Original  
Date: March 17, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
General Revenue	\$0	\$0	\$0
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTIONS**

Officials from the **Gaming Commission**, the **Department of Labor and Industrial Relations**, the **Department of Economic Development**, the **State Tax Commission**, the **Missouri House of Representatives**, the **Department of Elementary and Secondary Education**, the **Office of the State Treasurer**, the **Department of Conservation**, the **Office of Administration**, **Division of Budget and Planning**, the **Office of State Public Defender**, the **Office of the State Auditor**, the **Department of Revenue**, the **Missouri Consolidated Health Care Plan**, the **Office of State Courts Administrator**, the **Department of Insurance**, the **Department of Mental Health**, the **Missouri Senate**, the **Department Of Higher Education**, the **Office of the Lieutenant Governor**, and the **Department Of Social Services**, assume this proposal would have no impact on their organizations.

Officials from the **Department of Public Safety**; and the **Division of Fire Safety**, the **Division of Highway Safety**, the **Division of Liquor Safety**, and the **State Emergency Management Agency**, assume this proposal would have no impact on their organization.

ASSUMPTION (continued)

Officials from the **Department of Economic Development, Public Service Commission**, assume the proposal would have no direct fiscal impact on their organization; however, they assume the provisions which waive sovereign immunity could result in additional claims and suits against the state. Defending against the claims and suits would require additional resources, and claims substantiated would require payment by the state.

Officials from the **Missouri Veterans Commission** assume this proposal would have an unknown impact on their organization.

**Office of Administration, Division of General Services, Risk Management Section**, assume this proposal has potential cost if there would be a violation under workers' compensation or the FMLA laws. The proposed legislation would subject the State of Missouri, as an employer, through the waivers of sovereign immunity, to liability for the wrongful discharge or discrimination against an employee for exercising the employee's rights under workers' compensation. It also subjects the State of Missouri, through the waivers of sovereign immunity, to liability claims for violation of the Family Medical Leave Act. The proposed legislation appears to be in response to US Supreme Court rulings. We have no history of such claims prior to the US Supreme Court rulings and therefore cannot quantify a cost impact. The Office of the Attorney General would be the appropriate resource in regard to cost of litigation resulting from the proposed legislation.

Officials from the **Department of Transportation** (DOT) assume this proposal could increase the number of lawsuits filed but is unable to determine the direct fiscal impact to their organization. DOT officials assume the proposal would have an impact ranging from zero to negative unknown.

Officials from the **Office of the Attorney General** assume that any potential costs arising from the proposal could be absorbed with existing resources.

**Oversight** assumes the proposal could result in potential liability to the state from the provisions included in the proposal, regarding collective bargaining, the state Workers Compensation Law, and the federal Family and Medical Leave Act. In addition, Oversight assumes that any training for managers could be absorbed with existing resources and that any potential losses or costs to defend potential claims would be incurred several years after enactment of the proposal.

ASSUMPTION (continued)

Officials from the **Department of Agriculture**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Health and Senior Services**, and the **Missouri Lottery** did not respond to our request for information on this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## DESCRIPTION

This proposal would establish the State Employees' Protection Act.

1. Receipt of benefits from or participation in a collective bargaining organization would not constitute an authorization for a payroll deduction unless the employee personally executes a written authorization for such deduction.
2. No state department, official, division, or agency could enter into any agreement that requires a state employee to make a contribution, deduction, payment of fair representation fee, or any other payment to a collective bargaining organization.
3. No deduction could be made from a state employee's compensation warrant unless ordered by a court of competent jurisdiction, or unless specifically authorized in writing by such employee, or unless withheld pursuant to federal, state, or local statute, regulation, or ordinance relating to taxes, Social Security, railroad retirement, Medicare, or Medicaid.
4. No employer or agent, including the state or any agency, department, or division thereof, could discharge or in any way discriminate against any employee for exercising any of the employee's rights under the state Workers' Compensation Law. Any employee discharged or discriminated against would have a civil action for damages against his or her employer. For purposes of this section, the state would waive its sovereign immunity and submit to suit for claims up to the limits established in section 537.610, RSMo.
5. The state of Missouri, in its capacity as an employer, would be subject to the provisions the federal Family and Medical Leave Act, 29 U.S.C. Section 2601, et seq., and would be liable for any violation of such act. The state of Missouri would waive its sovereign immunity for purposes of enforcement of such act; except that no judgment entered against the state of Missouri could exceed the liability limits established in section 537.610, RSMo.

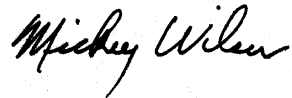
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development  
Public Service Commission  
Gaming Commission  
Department of Labor and Industrial Relations  
Office of Administration  
    Division of Budget and Planning  
    Division of General Services  
        Risk Management Section  
State Tax Commission  
Missouri Veterans Commission  
Missouri House of Representatives  
Office of the Attorney General  
Office of the State Auditor  
Department of Public Safety  
    Division of Fire Safety  
    State Emergency Management Agency  
    Division of Highway Safety  
    Division of Liquor Control  
Department of Elementary and Secondary Education  
Office of the State Treasurer  
Department of Conservation  
Office of the State Public Defender  
Department of Revenue  
Missouri Consolidated Health Care Plan  
Department Of Social Services  
Office of State Courts Administrator  
Department of Insurance  
Department of Mental Health  
Missouri Senate  
Department Of Higher Education  
Department of Transportation  
Office of the Lieutenant Governor

NOT RESPONDING

**Department of Agriculture**  
**Department of Natural Resources**  
**Department of Corrections**  
**Department of Health and Senior Services**  
**Missouri Lottery**

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
March 17, 2003